

Amendments to Senate Bill No. 301
1st Reading Copy

Requested by Senator Terry Murphy

For the Senate Agriculture, Livestock and Irrigation Committee

Prepared by Sue O'Connell
February 19, 2013 (11:20am)

SENATE AGRICULTURE
EXHIBIT NO. 1
DATE 2/19/13
BILL NO. SB 301

1. Page 1, line 17.

Strike: "to the notice"

Strike: "mailing"

Insert: "receipt"

2. Page 1, line 21 through line 22.

Strike: "If within" on line 21 through "property, the" on line 22

Insert: "The"

3. Page 1, line 24.

Following: "property"

Insert: "if:

(i) within 10 days of sending the certified letter to the address on the tax records or to the agent for service, the board is unable to determine the owner of the property; or

(ii) the letter cannot be delivered because the landowner or the landowner's representative refuses to sign the receipt or does not reside on the property"

4. Page 2, line 13.

Strike: "mailing of"

Insert: "receiving"

5. Page 3, line 2.

Following: "10 days of"

Insert: "the landowner's receipt of the"

6. Page 3, line 3 through line 6.

Strike: ":" on line 3 through "(a)" on line 4

Strike: ";or" on line 4 through "7-1-2121" on line 6

7. Page 3, line 7.

Strike: "the board has issued a"

Insert: "receiving"

8. Page 3, line 19 through line 20.

Strike: "upon" on line 19 through "court" on line 20

9. Page 4, line 5.

Following: "penalty"

Insert: "provided for in subsection (4) (b) "

10. Page 4, line 21.

Following: "this act]."

Insert: "The department may select the manner in which the
information may be distributed, including distribution by
electronic means."

11. Page 6, line 10.

Strike: "-- lien"

Strike: "(a) "

12. Page 6, line 13.

Strike: "(b) "

Insert: "(2) "

13. Page 6, line 18.

Strike: "(c) "

Insert: "(3) "

Strike: "(1) (b) "

Insert: "(2) "

14. Page 6, line 19 through line 21.

Strike: subsection (2) in its entirety

- END -

SB BILL NO. 301

INTRODUCED BY

(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COUNTY NOXIOUS WEED CONTROL LAWS; CLARIFYING PROCEDURES; REVISING TIME PERIODS FOR COMPLIANCE; AMENDING SECTIONS 7-22-2117, 7-22-2144, 7-22-2146, AND 7-22-2148, MCA; REPEALING SECTIONS 7-22-2123 AND 7-22-2124, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Noncompliance with weed control requirements -- general notice. (1)

(a) If a complaint is made against a landowner or the board has reason to believe that noxious weeds are present on a landowner's property, the board shall notify the landowner by certified mail of the complaint and shall request permission for the board's agent to enter the property to conduct an inspection.

(b) If the landowner has an agent for service on file with the secretary of state, the notice must be given by certified mail to the registered agent.

(c) The landowner or the landowner's representative shall respond to the notice within 10 days of mailing receipt of the notice.

(2) (a) If the board's agent and the landowner or landowner's representative agree to an inspection, the agent and the landowner or representative shall inspect the land at an agreed-upon time.

(b) ~~If within 10 days after sending the certified letter to the address listed on the tax records for the property or to the agent for service the board is unable to determine the owner of the property, the board or the board's agent may seek a court order to enter and inspect the land to determine if noxious weeds are present on the property.~~
 IF: (i) within 10 days of sending not
 (ii) the letter cannot be delivered because ... the property.

(3) If the board finds noxious weeds on the property during the inspection, the board shall:

(a) seek the landowner's or representative's voluntary compliance with the district weed management program in accordance with [section 2]; or

(b) if voluntary compliance is not obtained, notify the landowner or the landowner's representative by certified mail that noxious weeds were found on the property.

(4) The notice must contain the language specified in this section.

NEW SECTION. Section 3. Noncompliance -- actions for landowners. (1) If the board is unable to

obtain the landowner's voluntary compliance with the weed management program within 10 days of notification, ^{the landowner's receipt} of the

the landowner is considered to be in noncompliance and is subject to:

(a) appropriate control measures pursuant to [section 4]; or

(b) ~~a civil penalty as established by the board and approved by the commissioners following a public hearing after providing notice as required in 7-1-2121.~~

(2) (a) Within 10 days after the board has issued a ^{receiving} notice to comply with the weed management program, the landowner may request a hearing before the commissioners if the landowner disagrees with the weed control measures proposed by the board.

(b) If the landowner's objection to the board's action remains after the hearing, the landowner has 10 days to appeal the commissioners' decision to the district court with jurisdiction in the county in which the property is located.

(3) If the landowner has requested a hearing pursuant to subsection (2)(a) or has appealed a hearing decision pursuant to subsection (2)(b), the board may not take any action to control the noxious weeds until after the hearing and authorization is provided from the commissioners or the court.

NEW SECTION. Section 4. Noncompliance -- actions by board. (1) The board may seek a court

order to enter upon the infested parcels of the landowner's property if attempts to achieve voluntary compliance have been exhausted. The board may institute appropriate noxious weed control measures ~~upon order of the court~~, including but not limited to:

(a) allowing the local weed district coordinator to implement the appropriate noxious weed control measures if the actions taken are valued at the current rate paid for commercial management operations in the district and are reflected in the bill sent to the landowner and the clerk and recorder; or

(b) contracting with a commercial applicator as defined in 80-8-102 if the issues of compliance are not resolved under an agreement proposed and accepted pursuant to [section 2] and:

(i) the landowner does not take corrective action within the 10-day period provided for in [section 3]; or

(ii) the board does not receive a formal objection or the board of county commissioners does not receive a request for a hearing.

(2) A commercial applicator hired under this section shall carry all insurance required by the board.

(3) If a court issues an order approving a board's actions, the court retains jurisdiction over the matter:

1
2 **Section 7.** Section 7-22-2144, MCA, is amended to read:

3 **"7-22-2144. Payment of cost of weed control program.** The total cost of weed control within the
4 district must be paid from the noxious weed fund. The cost of controlling weeds growing along the right-of-way
5 of a state or federal highway must, upon the presentation by the board of a verified account of the expenses
6 incurred, be paid from the state highway fund in compliance with 7-14-2132 and any agreement between the
7 board and the department of transportation. Costs attributed to other lands within the district must be assessed
8 to and collected from the responsible person as set forth in ~~7-22-2124~~ [section 4]."

9
10 **Section 8.** Section 7-22-2146, MCA, is amended to read:

11 **"7-22-2146. Financial assistance to persons responsible for weed control.** (1) The commissioners,
12 upon recommendation of the board, may establish a cost-share program for the control of noxious weeds. The
13 board shall develop rules and procedures for the administration of the cost-share program. These procedures
14 may include the cost-share rate or amount and ~~for what the purposes~~ for which cost-share funds may be used.

15 (2) (a) Any person may voluntarily enter into a cost-share agreement for the management of noxious
16 weeds on the person's property. The coordinator shall draft a cost-share agreement in cooperation with the
17 person. The agreement must, in the board's judgment, provide for effective weed management.

18 (b) The agreement must specify:

19 (i) costs that must be paid from the noxious weed fund;

20 (ii) costs that must be paid by the person;

21 (iii) a location-specific weed management plan that must be followed by the person; and

22 (iv) reporting requirements of the person to the board.

23 (c) The cost-share agreement must be signed by the person and, upon approval of the board, by the
24 presiding officer.

25 (3) The agreement must contain a statement disclaiming any liability of the board for any injuries or
26 losses suffered by the person in managing noxious weeds under a cost-share agreement. If the board later finds
27 that the person has failed to abide by the terms of the agreement, all cost-share payments and agreements must
28 be canceled and the provisions of ~~7-22-2124~~ [section 4] apply to that person.

29 (4) (a) When under the terms of any voluntary agreement, whether entered into pursuant to ~~7-22-2123~~
30 [section 2] or otherwise, or under any cost-share agreement entered pursuant to this section a person incurs any